

108TH CONGRESS  
2D SESSION

# S. 3032

To provide for special trial judges of the United States Court of Federal Claims, make technical and conforming amendments relating to the transition of special masters to special trial judges, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2004

Mr. HATCH (for himself and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for special trial judges of the United States Court of Federal Claims, make technical and conforming amendments relating to the transition of special masters to special trial judges, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “United States Court  
5       of Federal Claims Special Trial Judges Act of 2004”.

1 **SEC. 2. NAME AND ORGANIZATIONAL CHANGES RELATING**  
2 **TO SPECIAL TRIAL JUDGES.**

3 (a) IN GENERAL.—Chapter 7 of title 28, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 180. Special trial judges**

7 “(a) The United States Court of Federal Claims and  
8 the United States Court of Federal Claims special trial  
9 judges shall, in accordance with this section, have jurisdic-  
10 tion over proceedings to determine if a petitioner under  
11 section 2111 of the Public Health Service Act (42 U.S.C.  
12 300aa–11) is entitled to compensation under the National  
13 Vaccine Injury Compensation Program under title XXI of  
14 that Act (42 U.S.C. 300aa–1 et seq.) and the amount of  
15 such compensation. The United States Court of Federal  
16 Claims may issue and enforce such orders as the court  
17 deems necessary to assure the prompt payment of any  
18 compensation awarded.

19 “(b)(1) In all proceedings brought by the filing of a  
20 petition under section 2111(b) of the Public Health Serv-  
21 ice Act (42 U.S.C. 300aa–11(b)), the Secretary of Health  
22 and Human Services shall be named as the respondent,  
23 shall participate, and shall be represented in accordance  
24 with section 518(a).

25 “(2) Within 30 days after the Secretary of Health  
26 and Human Services receives service of any petition filed

1 under section 2111 of the Public Health Service Act (42  
2 U.S.C. 300aa–11) the Secretary shall publish notice of  
3 such petition in the Federal Register. The special trial  
4 judge designated with respect to such petition under sub-  
5 section (c) shall afford all interested persons an oppor-  
6 tunity to submit relevant, written information—

7 “(A) relating to the existence of the evidence  
8 described in section 2113(a)(1)(B) of that Act (42  
9 U.S.C. 300aa–13(a)(1)(B)), or

10 “(B) relating to any allegation in a petition  
11 with respect to the matters described in section  
12 2111(c)(1)(C)(ii) of that Act (42 U.S.C. 300aa–  
13 11(c)(1)(C)(ii)).

14 “(c)(1) There is established within and under the su-  
15 pervision of the United States Court of Federal Claims  
16 an office of special trial judges. The judges of the United  
17 States Court of Federal Claims shall appoint the special  
18 trial judges, 1 of whom, by designation of the judges of  
19 the United States Court of Federal Claims, shall serve as  
20 chief special trial judge. The appointment and reappoint-  
21 ment of the special trial judges shall be by the concurrence  
22 of a majority of the judges of the court.

23 “(2) The chief special trial judge and other special  
24 trial judges shall be subject to removal by the judges of  
25 the United States Court of Federal Claims for incom-

1 competency, misconduct, or neglect of duty or for physical or  
2 mental disability or for other good cause shown.

3 “(3) A special trial judge’s office shall be terminated  
4 if the judges of the United States Court of Federal Claims  
5 determine, upon advice of the chief special trial judge, that  
6 the services performed by that office are no longer needed.

7 “(4) The appointment of any individual as a special  
8 trial judge shall be for a term of 8 years, subject to termi-  
9 nation under paragraphs (2) and (3).

10 “(5) Each special trial judge shall receive a salary—

11 “(A) at a rate equal to 92 percent of the rate  
12 for judges of the United States Court of Federal  
13 Claims; and

14 “(B) in the same installments as such judges.

15 “(6) Under the supervision of the Chief Judge of the  
16 United States Court of Federal Claims, the chief special  
17 trial judge shall be responsible for the following:

18 “(A) Administering the office of special trial  
19 judges and their staff, providing for the efficient, ex-  
20 peditious, and effective handling of petitions, and  
21 performing such other duties related to the National  
22 Vaccine Injury Compensation Program under title  
23 XXI of the Public Health Service Act (42 U.S.C.  
24 300aa–1 et seq.) as may be assigned to the chief  
25 special trial judge by a concurrence of a majority of

1 the judges of the United States Court of Federal  
2 Claims.

3 “(B) Appointing and fixing the salary and du-  
4 ties of such administrative staff as are necessary.  
5 Such staff shall be subject to removal for good cause  
6 by the chief special trial judge.

7 “(C) Managing and executing all aspects of  
8 budgetary and administrative affairs affecting the  
9 special trial judges and their staff, subject to the  
10 rules and regulations of the Judicial Conference of  
11 the United States. All Judicial Conference rules and  
12 regulations applicable to United States magistrate  
13 judges and the staff of those magistrate judges shall  
14 apply in the same manner and the same extent to  
15 special trial judges and the staff of those special  
16 trial judges, respectively.

17 “(D) Providing continuing educational opportu-  
18 nities for special trial judges.

19 “(E) Coordinating with the United States  
20 Court of Federal Claims the use of services, equip-  
21 ment, personnel, and information, and the use of fa-  
22 cilities of the United States Court of Federal  
23 Claims. The United States Court of Federal Claims  
24 shall be reimbursed by the National Vaccine Injury  
25 Compensation Program under title XXI of the Pub-

1       lic Health Service Act (42 U.S.C. 300aa–1 et seq.)  
2       for the use of such services, equipment, information,  
3       and facilities.

4               “(F) Reporting annually to Congress and the  
5       judges of the United States Court of Federal Claims  
6       on the number of petitions filed under section 2111  
7       of the Public Health Service Act (42 U.S.C. 300aa–  
8       11) and their disposition, the dates on which the  
9       vaccine-related injuries and deaths for which the pe-  
10      titions were filed occurred, the types and amounts of  
11      awards, the length of time for the disposition of peti-  
12      tions, the cost of administering the National Vaccine  
13      Injury Compensation Program, and recommenda-  
14      tions for changes in that program. The chief special  
15      trial judge shall also include in each report a sum-  
16      mary of any responsibilities assigned to the special  
17      trial judges under this subsection and an estimate of  
18      the amount of time expended by the special trial  
19      judges on such activities.

20       “(7) The Federal Judicial Center shall—

21               “(A) conduct periodic training programs and  
22      seminars for special trial judges; and

23               “(B) include special trial judges in general  
24      training programs and seminars conducted for bank-  
25      ruptcy judges and magistrate judges.

1 “(d)(1) Following the receipt and filing of a petition  
2 under section 2111 of the Public Health Service Act (42  
3 U.S.C. 300aa–11), the clerk of the United States Court  
4 of Federal Claims shall forward the petition to the chief  
5 special trial judge who shall designate a special trial judge  
6 to carry out the functions authorized by paragraph (3).

7 “(2) The special trial judges shall recommend rules  
8 to the United States Court of Federal Claims and, taking  
9 into account such recommended rules, the United States  
10 Court of Federal Claims shall promulgate rules under sec-  
11 tion 2071. Such rules shall—

12 “(A) provide for a less-adversarial, expeditious,  
13 and informal proceeding for the resolution of peti-  
14 tions,

15 “(B) include flexible and informal standards of  
16 admissibility of evidence,

17 “(C) include the opportunity for summary judg-  
18 ment,

19 “(D) include the opportunity for parties to sub-  
20 mit arguments and evidence on the record without  
21 requiring routine use of oral presentations, cross ex-  
22 aminations, or hearings, and

23 “(E) provide for limitations on discovery and  
24 allow the special trial judges to replace the usual

1 rules of discovery in civil actions in the United  
2 States Court of Federal Claims.

3 “(3)(A) A special trial judge to whom a petition has  
4 been assigned shall issue a decision on such petition with  
5 respect to whether compensation is to be provided under  
6 the National Vaccine Injury Compensation Program and  
7 the amount of such compensation. The decision of the spe-  
8 cial trial judge shall—

9 “(i) include findings of fact and conclusions of  
10 law, and

11 “(ii) be issued as expeditiously as practicable  
12 but not later than 240 days, exclusive of suspended  
13 time under subparagraph (C), after the date the pe-  
14 tition was filed.

15 The decision of the special trial judge may be reviewed  
16 by the United States Court of Federal Claims in accord-  
17 ance with subsection (e).

18 “(B) In conducting a proceeding on a petition, a spe-  
19 cial trial judge—

20 “(i) may require such evidence as may be rea-  
21 sonable and necessary,

22 “(ii) may require the submission of such infor-  
23 mation as may be reasonable and necessary,



1           “(iii) may require the testimony of any person  
2           and the production of any documents as may be rea-  
3           sonable and necessary,

4           “(iv) shall afford all interested persons an op-  
5           portunity to submit relevant written information—

6           “(I) relating to the existence of the evi-  
7           dence described in section 2113(a)(1)(B) of the  
8           Public Health Service Act (42 U.S.C. 300aa–  
9           13(a)(1)(B)), or

10           “(II) relating to any allegation in a peti-  
11           tion with respect to the matters described in  
12           section 2111(c)(1)(C)(ii) of that Act (42 U.S.C.  
13           300aa–11(c)(1)(C)(ii)), and

14           “(v) may conduct such hearings as may be rea-  
15           sonable and necessary.

16   There may be no discovery in a proceeding on a petition  
17   other than the discovery required by the special trial  
18   judge.

19           “(C) In conducting a proceeding on a petition, a spe-  
20   cial trial judge shall suspend the proceedings one time for  
21   30 days on the motion of either party. After a motion for  
22   suspension is granted, further motions for suspension by  
23   either party may be granted by the special trial judge, if  
24   the special trial judge determines the suspension is reason-

1 able and necessary, for an aggregate period not to exceed  
2 150 days.

3 “(D) If, in reviewing proceedings on petitions for vac-  
4 cine-related injuries or deaths associated with the adminis-  
5 tration of vaccines before the effective date of part A of  
6 title XXI of the Public Health Service Act (42 U.S.C.  
7 300aa–10 et seq.), the chief special trial judge determines  
8 that the number of filings and resultant workload place  
9 an undue burden on the parties or the special trial judge  
10 involved in such proceedings, the chief special trial judge  
11 may, in the interest of justice, suspend proceedings on any  
12 petition for up to 30 months (but for not more than 6  
13 months at a time) in addition to the suspension time under  
14 subparagraph (C).

15 “(4)(A) Except as provided in subparagraph (B), in-  
16 formation submitted to a special trial judge or the court  
17 in a proceeding on a petition may not be disclosed to a  
18 person who is not a party to the proceeding without the  
19 express written consent of the person who submitted the  
20 information.

21 “(B) A decision of a special trial judge or the court  
22 in a proceeding shall be disclosed, except that if the deci-  
23 sion is to include information—

1           “(i) which is trade secret or commercial or fi-  
2           nancial information which is privileged and confiden-  
3           tial, or

4           “(ii) which are medical files and similar files  
5           the disclosure of which would constitute a clearly un-  
6           warranted invasion of privacy,

7           and if the person who submitted such information objects  
8           to the inclusion of such information in the decision, the  
9           decision shall be disclosed without such information.

10          “(e)(1) Upon issuance of the special trial judge’s de-  
11          cision, the parties shall have 30 days to file with the clerk  
12          of the United States Court of Federal Claims a motion  
13          to have the court review the decision. If such a motion  
14          is filed, the other party shall file a response with the clerk  
15          of the United States Court of Federal Claims no later than  
16          30 days after the filing of such motion.

17          “(2) Upon the filing of a motion under paragraph  
18          (1) with respect to a petition, the United States Court  
19          of Federal Claims shall have jurisdiction to undertake a  
20          review of the record of the proceedings and may there-  
21          after—

22                 “(A) uphold the findings of fact and conclusions  
23                 of law of the special trial judge and sustain the spe-  
24                 cial trial judge’s decision,

1           “(B) set aside any findings of fact or conclusion  
2           of law of the special trial judge found to be arbitrary,  
3           capricious, an abuse of discretion, or otherwise  
4           not in accordance with law and issue its own  
5           findings of fact and conclusions of law, or

6           “(C) remand the petition to the special trial  
7           judge for further action in accordance with the  
8           court’s direction.

9   The court shall complete its action on a petition within  
10 120 days of the filing of a response under paragraph (1)  
11 excluding any days the petition is before a special trial  
12 judge as a result of a remand under subparagraph (C).  
13 The court may allow not more than 90 days for remands  
14 under subparagraph (C).

15       “(3) In the absence of a motion under paragraph (1)  
16 respecting the special trial judge’s decision or if the  
17 United States Court of Federal Claims takes the action  
18 described in paragraph (2)(A) with respect to the special  
19 trial judge’s decision, the clerk of the United States Court  
20 of Federal Claims shall immediately enter judgment in accordance  
21 with the special trial judge’s decision.

22       “(f) The findings of fact and conclusions of law of  
23 the United States Court of Federal Claims on a petition  
24 shall be final determinations of the matters involved, except  
25 that the Secretary of Health and Human Services

1 or any petitioner aggrieved by the findings or conclusions  
2 of the court may obtain review of the judgment of the  
3 court in the United States Court of Appeals for the Fed-  
4 eral Circuit upon petition filed within 60 days of the date  
5 of the judgment with such court of appeals within 60 days  
6 of the date of entry of the judgment of the United States  
7 Court of Federal Claims with such court of appeals.

8 “(g) If—

9 “(1) a special trial judge fails to make a deci-  
10 sion on a petition within the 240 days prescribed by  
11 subsection (d)(3)(A)(ii) (excluding (A) any period of  
12 suspension under subsection (d)(3) (C) or (D), and  
13 (B) any days the petition is before a special trial  
14 judge as a result of a remand under subsection  
15 (e)(2)(C)), or

16 “(2) the United States Court of Federal Claims  
17 fails to enter a judgment under this section on a pe-  
18 tition within 420 days (excluding (A) any period of  
19 suspension under subsection (d)(3) (C) or (D), and  
20 (B) any days the petition is before a special trial  
21 judge as a result of a remand under subsection  
22 (e)(2)(C)) after the date on which the petition was  
23 filed,

24 the special trial judge or court shall notify the petitioner  
25 under such petition that the petitioner may withdraw the

1 petition under section 2121(b) of the Public Health Serv-  
2 ice Act (42 U.S.C. 300aa–21(b)) or the petitioner may  
3 choose under section 2121(b) of that Act to have the peti-  
4 tion remain before the special trial judge or court, as the  
5 case may be.

6 “(h) Consistent with section 798(c), the chief judge  
7 of the United States Court of Federal Claims may assign  
8 to special trial judges such other responsibilities as are  
9 not inconsistent with the laws of the United States, includ-  
10 ing the duties and responsibilities of special trial judges  
11 under this section. In assigning these additional respon-  
12 sibilities, the chief judge shall, at all times, prioritize and  
13 not interfere with the need for the efficient, expeditious,  
14 and effective handling of duties related to the National  
15 Vaccine Injury Compensation Program. Any duties not re-  
16 lated to that program performed by the special trial judges  
17 may not be compensated with funds made available to that  
18 program. The Court of Federal Claims shall retain final  
19 decisional authority in matters not related to that program  
20 assigned to special trial judges.

21 “(i) Subchapter I of chapter 63 of title 5 shall not  
22 apply to a special trial judge appointed under this section.

23 “(j) For purposes of construing and applying chapter  
24 87 of title 5, including any adjustment of insurance rates  
25 by regulation or otherwise, a special trial judge in regular

1 active service or who is retired under section 181 of this  
 2 title shall be deemed to be a judge of the United States  
 3 described under section 8701(a)(5) of title 5.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENTS TO  
 5 THE PUBLIC HEALTH SERVICE ACT.—Title XXI of the  
 6 Public Health Service Act (42 U.S.C. 300aa–1 et seq.)  
 7 is amended—

8 (1) in section 2111 (42 U.S.C. 300aa–11)—

9 (A) in subsection (a)—

10 (i) in paragraph (1), by striking  
 11 “chief special master for assignment to a  
 12 special master under section 2112(d)(1)”  
 13 and inserting “chief special trial judge for  
 14 assignment under section 180(d)(1) of title  
 15 28, United States Code,”; and

16 (ii) in paragraph (2)(A)(i)(II), by  
 17 striking “section 2112” and inserting “sec-  
 18 tion 180 of title 28, United States Code,”;  
 19 and

20 (B) in subsection (e), by striking “special  
 21 master” and inserting “special trial judge”;

22 (2) by striking section 2112 (42 U.S.C. 300aa–  
 23 12) and inserting the following:

24 “JURISDICTION

25 “SEC. 2112. The United States Court of Federal  
 26 Claims and the United States Court of Federal Claims

1 special trial judges shall have jurisdiction relating to the  
 2 Program under section 180 of title 28, United States  
 3 Code. References to special trial judges in this title shall  
 4 refer to special trial judges under section 180 of that  
 5 title.”;

6 (3) in section 2113 (42 U.S.C. 300aa-13)—

7 (A) in subsection (a)(1), by striking “spe-  
 8 cial master” each place it appears and inserting  
 9 “special trial judge”;

10 (B) in subsection (b), by striking “special  
 11 master” each place it appears and inserting  
 12 “special trial judge”; and

13 (C) in subsection (c), by striking “special  
 14 masters” and inserting “special trial judges”;

15 (4) in section 2115 (42 U.S.C. 300aa-15), by  
 16 striking “special master” each place it appears and  
 17 inserting “special trial judge”;

18 (5) in section 2115(f)(2) (42 U.S.C. 300aa-  
 19 15(f)(2)), by striking “section 2112” and inserting  
 20 “section 180 of title 28, United States Code,”;

21 (6) in section 2121 (42 U.S.C. 300aa-21)—

22 (A) in subsection (a), by striking “section  
 23 2112(f)” and inserting “section 180 of title 28,  
 24 United States Code”; and



1 (B) by striking subsection (b) and insert-  
2 ing the following:

3 “(b) CONTINUANCE OR WITHDRAWAL OF PETI-  
4 TION.—A petitioner under a petition filed under section  
5 2111 may submit to the United States Claims Court a  
6 notice in writing choosing to continue or to withdraw the  
7 petition if—

8 “(1) a special trial judge fails to make a deci-  
9 sion on such petition within the 240 days prescribed  
10 by section 180(d)(3)(A)(ii) of title 28, United States  
11 Code (excluding (i) any period of suspension under  
12 section 180(d)(3) (C) or (D) of that title, and (ii)  
13 any days the petition is before a special master as  
14 a result of a remand under section 180(e)(2)(C)) of  
15 that title, or

16 “(2) the court fails to enter a judgment under  
17 section 180 of title 28, United States Code, on the  
18 petition within 420 days (excluding (i) any period of  
19 suspension under section 180(d)(3) (C) or (D) of  
20 that title, and (ii) any days the petition is before a  
21 special master as a result of a remand under section  
22 180(e)(2)(C)) of that title, after the date on which  
23 the petition was filed.

1           Such a notice shall be filed within 30 days of  
 2           the provision of the notice required by section  
 3           180(g) of that title.”; and

4           (7) in section 2123 (42 U.S.C. 300aa–23) by  
 5           striking “special master” each place it appears and  
 6           inserting “special trial judge”.

7           (c) LEAVE TRANSITION PROVISIONS.—

8           (1) ANNUAL LEAVE.—If a person who was pre-  
 9           viously subject to the provisions of subchapter I of  
 10          chapter 63 of title 5, United States Code, is exempt-  
 11          ed from that subchapter by operation of amend-  
 12          ments under this section, the accumulated and cur-  
 13          rent accrued annual leave to which he was entitled  
 14          immediately before the date he was exempted shall  
 15          be liquidated by a lump-sum payment in accordance  
 16          with subsection (a) of section 5551 of that title, ex-  
 17          cept that the payment is based on the rate of pay  
 18          which he was receiving immediately before the date  
 19          on which he was exempted.

20          (2) SICK LEAVE.—If a person who was pre-  
 21          viously subject to the provisions of subchapter I of  
 22          chapter 63 of title 5, United States Code, and who  
 23          was exempted from that subchapter by operation of  
 24          amendments under this section, without a break in  
 25          service again becomes subject to that subchapter on

1 completion of his service as an exempted officer, the  
2 unused sick leave standing to his credit when he was  
3 exempted from that subchapter is deemed to have  
4 remained to his credit.

5 (3) ANNUITY COMPUTATION.—In computing an  
6 annuity under section 8339 of title 5, United States  
7 Code, the total service of a person specified in para-  
8 graph (2) of this subsection who retired on an imme-  
9 diate annuity or dies leaving a survivor or survivors  
10 entitled to an annuity includes, without regard to  
11 the limitations imposed by subsection (f) of section  
12 8339 of title 5, United States Code, the days of un-  
13 used sick leave standing to his credit when he was  
14 exempted from subchapter I of chapter 63 of title 5,  
15 United States Code, except that these days will not  
16 be counted in determining average pay or annuity  
17 eligibility.

18 (d) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Except as provided in para-  
20 graph (2), the amendments made by this section  
21 shall take effect on the date of the enactment of this  
22 Act.

23 (2) SALARY.—Section 180(c)(5)(A) of title 28,  
24 United States Code (as added by this Act), shall  
25 take effect on the first day of the first applicable pay

1 period beginning after the date of enactment of this  
2 Act.

3 (3) NEW APPOINTMENTS NOT REQUIRED.—Any  
4 person serving as a special master of the United  
5 States Court of Federal Claims on the day before  
6 the date of the enactment of this Act shall become  
7 a special trial judge upon the enactment of this Act,  
8 until the expiration of such person’s current 4-year  
9 term, without need for a new appointment, subject  
10 to termination under section 180(c) (2) or (3) of  
11 title 28, United States Code (as added by this Act).  
12 The chief special master in office on the day before  
13 the date of enactment of this Act shall become the  
14 chief special trial judge for the balance of that spe-  
15 cial trial judge’s term, subject to termination under  
16 section 180(c) (2) or (3) of title 28, United States  
17 Code (as added by this Act). However, any special  
18 master appointed or reappointed to a 4-year term  
19 within 1 year of the enactment of this Act shall  
20 serve a total of 8 years, including time served during  
21 the 4-year special master term, without need for a  
22 new appointment, and subject to termination under  
23 section 180(c) (2) or (3) of that title.

1 **SEC. 3. RETIREMENT SYSTEM FOR SPECIAL TRIAL JUDGES.**

2 (a) IN GENERAL.—Chapter 7 of title 28, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing:

5 **“§ 181. Retirement of special trial judges**

6 “(a) RETIREMENT BASED ON YEARS OF SERVICE.—  
7 A special trial judge to whom this section applies and who  
8 retires from office after attaining the age of 65 years and  
9 serving a total of at least 14 years, whether continuously  
10 or otherwise, as either a special trial judge or as a special  
11 master of the United States Court of Federal Claims  
12 under section 180 of this title or section 2112 of the Pub-  
13 lic Health Service Act (42 U.S.C. 300aa–12) shall, subject  
14 to subsection (f), be entitled to receive, during the remain-  
15 der of the judge’s lifetime, an annuity equal to the salary  
16 being received at the time the judge leaves office.

17 “(b) RETIREMENT UPON FAILURE OF REAPPOINT-  
18 MENT.—A special trial judge to whom this section applies,  
19 who is not reappointed following the expiration of the term  
20 of office of such judge, and who retires upon the comple-  
21 tion of the term shall, subject to subsection (f), be entitled  
22 to receive, upon attaining the age of 65 years and during  
23 the remainder of such judge’s lifetime, an annuity equal  
24 to that portion of the salary being received at the time  
25 the judge leaves office which the aggregate number of  
26 years of service, not to exceed 14, bears to 14, if—

1           “(1) such judge has served at least 1 full term  
2       as a special trial judge or at least 2 full 4-year  
3       terms as a special master of the United States Court  
4       of Federal Claims under section 180 of this title or  
5       section 2112 of the Public Health Service Act (42  
6       U.S.C. 300aa–12); and

7           “(2) not earlier than 9 months before the date  
8       on which the term of office of such judge expires,  
9       and not later than 6 months before such date, such  
10      judge notified the appointing authority in writing  
11      that such judge was willing to accept reappointment  
12      to the position in which such judge was serving.

13   For purposes of this subsection, the written notice re-  
14   quired by paragraph (2) shall be given to the chief judge  
15   of the United States Court of Federal Claims.

16       “(c) SERVICE OF AT LEAST 8 YEARS.—A special trial  
17   judge to whom this section applies and who retires after  
18   serving at least 8 years, whether continuously or other-  
19   wise, as such a judge or as a special master of the United  
20   States Court of Federal Claims under section 180 of this  
21   title or section 2112 of the Public Health Service Act (42  
22   U.S.C. 300aa–12) shall, subject to subsection (f), be enti-  
23   tled to receive, upon attaining the age of 65 years and  
24   during the remainder of the judge’s lifetime, an annuity  
25   equal to that portion of the salary being received at the

1 time the judge leaves office which the aggregate number  
2 of years of service, not to exceed 14, bears to 14. Such  
3 annuity shall be reduced by  $\frac{1}{6}$  of 1 percent for each full  
4 month such judge was under the age of 65 at the time  
5 the judge left office, except that such reduction shall not  
6 exceed 20 percent.

7       “(d) RETIREMENT FOR DISABILITY.—A special trial  
8 judge to whom this section applies, who has served at least  
9 5 years, whether continuously or otherwise, as such a  
10 judge or as a special master of the United States Court  
11 of Federal Claims under section 180 of this title or section  
12 2112 of the Public Health Service Act (42 U.S.C. 300aa–  
13 12), and who retires or is removed from office upon the  
14 sole ground of mental or physical disability shall, subject  
15 to subsection (f), be entitled to receive, during the remain-  
16 der of the judge’s lifetime, an annuity equal to 40 percent  
17 of the salary being received at the time of retirement or  
18 removal or, in the case of a judge who has served for at  
19 least 10 years, an amount equal to that proportion of the  
20 salary being received at the time of retirement or removal  
21 which the aggregate number of years of service, not to  
22 exceed 14, bears to 14.

23       “(e) COST-OF-LIVING ADJUSTMENTS.—A special  
24 trial judge who is entitled to an annuity under this section  
25 is also entitled to a cost-of-living adjustment in such annu-

1 ity, calculated and payable in the same manner as adjust-  
 2 ments under section 8340(b) of title 5, except that any  
 3 such annuity, as increased under this subsection, may not  
 4 exceed the salary then payable for the position from which  
 5 the judge retired or was removed.

6 “(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNU-  
 7 ITIES.—A special trial judge shall be entitled to an annu-  
 8 ity under this section if the judge elects an annuity under  
 9 this section by notifying the Director of the Administrative  
 10 Office of the United States Courts. A special trial judge  
 11 who elects to receive an annuity under this section shall  
 12 not be entitled to receive any annuity to which such judge  
 13 would otherwise have been entitled under subchapter III  
 14 of chapter 83, or under chapter 84 (except for subchapters  
 15 III and VII), of title 5.

16 “(g) CALCULATION OF SERVICE.—For purposes of  
 17 calculating an annuity under this section—

18 “(1) full-time service as a special trial judge ap-  
 19 pointed under section 180 shall be credited;

20 “(2) service as a special master under section  
 21 2112 of the Public Health Service Act (42 U.S.C.  
 22 300aa–12) (as in effect before the date of enactment  
 23 of section 180 of this title) shall be credited; and



1           “(3) each month of service shall be credited as  
2           one-twelfth of a year, and the fractional part of any  
3           month shall not be credited.

4           “(h) COVERED POSITIONS AND SERVICE.—This sec-  
5           tion applies to any special trial judge appointed under sec-  
6           tion 180 and to any individual formerly appointed as a  
7           special master of the United States Court of Federal  
8           Claims under section 2112 of the Public Health Service  
9           Act (42 U.S.C. 300aa–12) who becomes a special trial  
10          judge by the operation of this Act.

11          “(i) PAYMENTS UNDER COURT ORDER.—

12                 “(1) IN GENERAL.—Payments under this sec-  
13                 tion which would otherwise be made to a special trial  
14                 judge based upon his or her service shall be paid (in  
15                 whole or in part) by the Director of the Administra-  
16                 tive Office of the United States Courts to another  
17                 person if and to the extent expressly provided for in  
18                 the terms of any court decree of divorce, annulment,  
19                 or legal separation, or the terms of any court order  
20                 or court-approved property settlement agreement in-  
21                 cident to any court decree of divorce, annulment, or  
22                 legal separation. Any payment under this paragraph  
23                 to a person bars recovery by any other person.

24                 “(2) CONDITION OF PAYMENT.—Paragraph (1)  
25                 shall apply only to payments made by the Director

1 of the Administrative Office of the United States  
 2 Courts after the date of receipt by the Director of  
 3 written notice of such decree, order, or agreement,  
 4 and such additional information as the Director may  
 5 prescribe.

6 “(3) DEFINITION.—In this subsection, the term  
 7 ‘court’ means any court of any State, the District of  
 8 Columbia, the Commonwealth of Puerto Rico,  
 9 Guam, the Northern Mariana Islands, or the Virgin  
 10 Islands, and any Indian tribal court or courts of In-  
 11 dian offense.

12 “(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-  
 13 ITS.—

14 “(1) DEDUCTIONS.—Beginning with the next  
 15 pay period after the Director of the Administrative  
 16 Office of the United States Courts receives a notice  
 17 under subsection (f) that a special trial judge has  
 18 elected an annuity under this section, the Director  
 19 shall deduct and withhold 1 percent of the salary of  
 20 such judge. Amounts shall be so deducted and with-  
 21 held in a manner determined by the Director.  
 22 Amounts deducted and withheld under this sub-  
 23 section shall be deposited in the Treasury of the  
 24 United States to the credit of the Special Trial  
 25 Judges’ Retirement Fund. Deductions under this

1 subsection from the salary of a special trial judge  
 2 shall terminate upon the retirement of the judge or  
 3 upon completing 14 years of service for which con-  
 4 tributions under this section have been made, wheth-  
 5 er continuously or otherwise, as calculated under  
 6 subsection (g), whichever occurs first.

7 “(2) CONSENT TO DEDUCTIONS; DISCHARGE OF  
 8 CLAIMS.—Each special trial judge who makes an  
 9 election under subsection (f) shall be deemed to con-  
 10 sent and agree to the deductions from salary which  
 11 are made under paragraph (1). Payment of such sal-  
 12 ary less such deductions (and any deductions made  
 13 under section 376 of this title) is a full and complete  
 14 discharge and acquittance of all claims and demands  
 15 for all services rendered by such judge during the  
 16 period covered by such payment, except the right to  
 17 those benefits to which the judge is entitled under  
 18 this section (and section 376).

19 “(k) DEPOSITS FOR PRIOR SERVICE.—Each special  
 20 trial judge who makes an election under subsection (f)  
 21 may deposit, for service as a special trial judge or as a  
 22 special master of the United States Court of Federal  
 23 Claims under section 2112 of the Public Health Service  
 24 Act (42 U.S.C. 300aa–12) performed before such election  
 25 for which contributions may be made under this section,

1 an amount equal to 1 percent of the salary received for  
 2 that service. Credit for any period covered by that service  
 3 may not be allowed for purposes of an annuity under this  
 4 section until a deposit under this subsection has been  
 5 made for that period.

6 “(l) INDIVIDUAL RETIREMENT RECORDS.—The  
 7 amounts deducted and withheld under subsection (j), and  
 8 the amounts deposited under subsection (k), shall be cred-  
 9 ited to individual accounts in the name of each special trial  
 10 judge from whom such amounts are received, for credit  
 11 to the Special Trial Judges’ Retirement Fund.

12 “(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

13 “(1) PRACTICING LAW AFTER RETIREMENT.—

14 “(A) FORFEITURE OF ANNUITY.—Subject  
 15 to paragraph (B), any special trial judge of the  
 16 United States Court of Federal Claims who re-  
 17 tires under this section and who thereafter in  
 18 the practice of law represents (or supervises or  
 19 directs the representation of) a client in making  
 20 any civil claim against the United States or any  
 21 agency thereof shall forfeit all rights to an an-  
 22 nuity under this section for all periods begin-  
 23 ning on or after the first day on which he en-  
 24 gages in any such activity.

1                   “(B) FORFEITURES NOT TO APPLY WHERE  
2                   INDIVIDUAL ELECTS TO FREEZE AMOUNT OF  
3                   ANNUITY.—

4                   “(i) IN GENERAL.—If a special trial  
5                   judge makes an election to practice law as  
6                   described in subparagraph (A) after retire-  
7                   ment under this section—

8                   “(I) subparagraph (A) shall not  
9                   apply to such judge beginning on the  
10                  date such election takes effect; and

11                  “(II) the annuity payable under  
12                  this section to such judge, for periods  
13                  beginning on or after the date such  
14                  election takes effect, shall be equal to  
15                  the annuity to which such judge is en-  
16                  titled on the day before such effective  
17                  date.

18                  “(ii) ELIGIBILITY AND FILING.—An  
19                  election under clause (i)—

20                  “(I) may be made by a special  
21                  trial judge eligible for retirement  
22                  under this section; and

23                  “(II) shall be filed with the Di-  
24                  rector of the Administrative Office of  
25                  the United States Courts. Such an

1 election, once it takes effect, shall be  
2 irrevocable.

3 “(iii) EFFECTIVE DATE.—Any election  
4 under this subparagraph shall take effect  
5 on the first day of the first month fol-  
6 lowing the month in which the election is  
7 made.

8 “(2) RECALL NOT PERMITTED.—Any special  
9 trial judge who retires under this section and who  
10 thereafter practices law as described in subpara-  
11 graph (1)(A) shall not be eligible for recall under  
12 section 182 of this title.

13 “(3) ACCEPTING OTHER EMPLOYMENT.—Any  
14 special trial judge who retires under this section and  
15 thereafter accepts compensation for civil office or  
16 employment under the United States Government  
17 (other than for service as a special trial judge under  
18 the recall provision of section 182 of this title) shall  
19 forfeit all rights to an annuity under this section for  
20 the period for which such compensation is received.  
21 For purposes of this paragraph, the term ‘compensa-  
22 tion’ includes retired pay or salary received in re-  
23 tired status.

24 “(n) LUMP-SUM PAYMENTS.—

25 “(1) ELIGIBILITY.—

1           “(A) IN GENERAL.—Subject to paragraph  
2           (2), an individual who serves as a special trial  
3           judge and—

4                   “(i) who leaves office and is not re-  
5                   appointed as a special trial judge for at  
6                   least 31 consecutive days;

7                   “(ii) who files an application with the  
8                   Administrative Office of the United States  
9                   Courts for payment of the lump-sum cred-  
10                  it;

11                  “(iii) is not serving as a special trial  
12                  judge at the time of filing of the applica-  
13                  tion; and

14                  “(iv) will not become eligible to re-  
15                  ceive an annuity under this section within  
16                  31 days after filing the application,  
17                  is entitled to be paid the lump-sum credit.

18           “(B) RIGHTS TO ANNUITY VOIDED.—Pay-  
19           ment of the lump-sum credit voids all rights to  
20           an annuity under this section based on the serv-  
21           ice on which the lump-sum credit is based, until  
22           that individual resumes office as a special trial  
23           judge.

24           “(C) ORDER OF PRECEDENCE.—Lump-  
25           sum benefits authorized by subparagraphs (D),

1 (E), and (F) of this paragraph shall be paid to  
 2 the person or persons surviving the special trial  
 3 judge and alive on the date title to the payment  
 4 arises, in the order of precedence set forth in  
 5 subsection (o) of section 376 of this title, and  
 6 in accordance with the last 2 sentences of that  
 7 subsection. For purposes of the preceding sen-  
 8 tence, the term ‘judicial official’ as used in sub-  
 9 section (o) of section 376 shall be deemed to  
 10 mean ‘special trial judge’.

11 “(D) DEATH BEFORE ANNUITY.—If a spe-  
 12 cial trial judge dies before receiving an annuity  
 13 under this section, the lump-sum credit shall be  
 14 paid.

15 “(E) PAYMENT AFTER TERMINATION OF  
 16 ANNUITY RIGHTS OF DECEASED JUDGE.—If all  
 17 annuity rights under this section based on the  
 18 service of a deceased special trial judge termi-  
 19 nate before the total annuity paid equals the  
 20 lump-sum credit, the difference shall be paid.

21 “(F) DEATH WHILE RECEIVING ANNU-  
 22 ITY.—If a special trial judge who is receiving  
 23 an annuity under this section dies, annuity ac-  
 24 crued and unpaid shall be paid.



1           “(G) PAYMENT ON TERMINATION OF AN-  
 2           NUITY.—Annuity accrued and unpaid on the  
 3           termination, except by death, of the annuity of  
 4           a special trial judge shall be paid to that indi-  
 5           vidual.

6           “(H) PAYMENT AFTER FORFEITURE OF  
 7           RIGHT TO ANNUITY.—Subject to paragraph (2),  
 8           a special trial judge who forfeits rights to an  
 9           annuity under subsection (m)(3) before the  
 10          total annuity paid equals the lump-sum credit,  
 11          shall be entitled to be paid the difference if the  
 12          special trial judge files an application with the  
 13          Administrative Office of the United States  
 14          Courts for payment of that difference. A pay-  
 15          ment under this subparagraph voids all rights  
 16          to an annuity on which the payment is based.

17          “(2) SPOUSES AND FORMER SPOUSES.—

18               “(A) IN GENERAL.—Payment of the lump-  
 19               sum credit under paragraph (1)(A) or a pay-  
 20               ment under paragraph (1)(G)—

21                       “(i) may be made only if any current  
 22                       spouse and any former spouse of the spe-  
 23                       cial trial judge are notified of the judge’s  
 24                       application; and

1 (ii) shall be subject to the terms of a  
2 court decree of divorce, annulment, or legal  
3 separation or any court or court approved  
4 property settlement agreement incident to  
5 such decree, if—

6 “(I) the decree, order, or agree-  
7 ment expressly relates to any portion  
8 of the lump-sum credit or other pay-  
9 ment involved; and

10 (II) payment of the lump-sum  
11 credit or other payment would extin-  
12 guish entitlement of the special trial  
13 judge’s spouse or former spouse to  
14 any portion of an annuity under sub-  
15 section (i).

16 “(B) NOTIFICATION.—Notification of a  
17 spouse or former spouse under this paragraph  
18 shall be made in accordance with such require-  
19 ments as the Director of the Administrative Of-  
20 fice of the United States Courts shall by regula-  
21 tion prescribe. The Director may provide under  
22 such regulations that subparagraph (A)(i) may  
23 be waived with respect to a spouse or former  
24 spouse if the special trial judge establishes to  
25 the satisfaction of the Director that the where-

1           abouts of such spouse or former spouse cannot  
2           be determined.

3                   “(C) REGULATIONS.—The Director shall  
4           prescribe regulations under which this para-  
5           graph shall be applied in any case in which the  
6           Director receives 2 or more orders or decrees  
7           described in subparagraph (A).

8                   “(3) DEFINITION.—In this subsection, the term  
9           ‘lump-sum credit’ means the unrefunded amount  
10          consisting of—

11                   “(A) retirement deductions made under  
12          this section from the salary of a special trial  
13          judge;

14                   “(B) amounts deposited under subsection  
15          (k) by a special trial judge covering earlier serv-  
16          ice; and

17                   “(C) interest on the deductions and depos-  
18          its which, for any calendar year, shall be equal  
19          to the overall average yield to the Special Trial  
20          Judges’ Retirement Fund during the preceding  
21          fiscal year from all obligations purchased by the  
22          Secretary of the Treasury during such fiscal  
23          year under subsection (o), but does not include  
24          interest—

1 “(i) if the service covered thereby ag-  
 2 gregates 1 year or less; or

3 “(ii) for the fractional part of a  
 4 month in the total service.

5 “(o) SPECIAL TRIAL JUDGES’ RETIREMENT  
 6 FUND.—

7 “(1) ESTABLISHMENT.—There is established in  
 8 the Treasury a fund which shall be known as the  
 9 ‘Special Trial Judges’ Retirement Fund’. The Fund  
 10 is appropriated for the payment of annuities, re-  
 11 funds, and other payments under this section.

12 “(2) INVESTMENT OF FUND.—The Secretary of  
 13 the Treasury shall invest, in interest bearing securi-  
 14 ties of the United States, such currently available  
 15 portions of the Special Trial Judges’ Retirement  
 16 Fund as are not immediately required for payments  
 17 from the Fund. The income derived from these in-  
 18 vestments constitutes a part of the Fund.

19 “(3) UNFUNDED LIABILITY.—

20 “(A) AUTHORIZATION OF APPROPRIA-  
 21 TIONS.—There are authorized to be appro-  
 22 priated to the Special Trial Judges’ Retirement  
 23 Fund amounts required to reduce to zero the  
 24 unfunded liability of the Fund.

25 “(B) UNFUNDED LIABILITY.—

1           “(i) DEFINITION.—For purposes of  
 2           subparagraph (A), the term ‘unfunded li-  
 3           ability’ means the estimated excess, deter-  
 4           mined on an annual basis in accordance  
 5           with the provisions of section 9503 of title  
 6           31, of the present value of all benefits pay-  
 7           able from the Special Trial Judges’ Retirement  
 8           Fund over the sum of—

9                       “(I) the present value of deduc-  
 10                      tions to be withheld under this section  
 11                      from the future basic pay of special  
 12                      trial judges; plus

13                     “(II) the balance in the Fund as  
 14                     of the date the unfunded liability is  
 15                     determined.

16           “(ii) DETERMINATIONS.—In making  
 17           any determination under this subpara-  
 18           graph, the Comptroller General shall use  
 19           the applicable information contained in the  
 20           reports filed under section 9503 of title 31,  
 21           with respect to the retirement annuities  
 22           provided for in this section.”.

23           (b) INCUMBENT SPECIAL TRIAL JUDGES.—

24                   (1) RETIREMENT ANNUITY UNDER TITLE 5 AND  
 25                   SECTION 181 OF TITLE 28.—A special trial judge in

1 active service on the effective date of this Act shall,  
2 subject to paragraph (2), be entitled, in lieu of the  
3 annuity otherwise provided under the amendments  
4 made by this section, to—

5 (A) an annuity under subchapter III of  
6 chapter 83, or under chapter 84, of title 5,  
7 United States Code, as the case may be, for  
8 creditable service before the date on which serv-  
9 ice would begin to be credited for purposes of  
10 subparagraph (B); and

11 (B) an annuity calculated under subsection  
12 (b) or (c) and subsection (g) of section 181 of  
13 title 28, United States Code, as added by this  
14 section, for any service as a full-time special  
15 trial judge or special master on or after October  
16 1, 1988 (as specified in the election under para-  
17 graph (2)) for which deductions and deposits  
18 are made under subsections (j) and (k) of such  
19 section 181, as applicable, without regard to the  
20 minimum number of years of service as such a  
21 special trial judge or special master, except  
22 that—

23 (i) in the case of a special trial judge  
24 who retired with less than 8 years of serv-  
25 ice, the annuity under subsection (c) of

1 section 181 of title 28, United States  
 2 Code, shall be equal to that proportion of  
 3 the salary being received at the time the  
 4 judge leaves office which the years of serv-  
 5 ice bears to 14, subject to a reduction in  
 6 accordance with subsection (c) of such sec-  
 7 tion 181 if the judge is under age 65 at  
 8 the time he or she leaves office; and

9 (ii) the aggregate amount of the an-  
 10 nuity initially payable on retirement under  
 11 this subsection may not exceed the rate of  
 12 pay for the judge which is in effect on the  
 13 day before the retirement becomes effec-  
 14 tive.

15 (2) FILING OF NOTICE OF ELECTION.—A spe-  
 16 cial trial judge shall be entitled to an annuity under  
 17 this subsection only if the judge files a notice of that  
 18 election with the Director of the Administrative Of-  
 19 fice of the United States Courts specifying the date  
 20 on which service would begin to be credited under  
 21 section 181 of title 28, United States Code, in lieu  
 22 of chapter 83 or chapter 84 of title 5, United States  
 23 Code.

24 (3) LUMP-SUM CREDIT UNDER TITLE 5.—A  
 25 special trial judge who makes an election under

1 paragraph (2) shall be entitled to a lump-sum credit  
 2 under section 8342 or 8424 of title 5, United States  
 3 Code, as the case may be, for any service which is  
 4 covered under section 181 of title 28, United States  
 5 Code, as added by this section, under that election,  
 6 and with respect to which any contributions were  
 7 made by the judge under the applicable provisions of  
 8 title 5, United States Code.

9 (4) RECALL.—With respect to any special trial  
 10 judge receiving an annuity under this subsection  
 11 who is recalled to serve under section 182 of title  
 12 28, United States Code—

13 (A) the amount of compensation which  
 14 such recalled judge receives under subsection  
 15 (b) of such section shall be calculated on the  
 16 basis of the annuity received under this sub-  
 17 section; and

18 (B) such recalled judge may serve as a re-  
 19 employed annuitant to the extent permitted by  
 20 subsection (c) of section 182 of such title.

21 Section 181(m)(3) of title 28, United States Code  
 22 (as added by this section), shall not apply with re-  
 23 spect to service as a reemployed annuitant described  
 24 in subparagraph (B).



1 **SEC. 4. JUDICIAL SURVIVORS' ANNUITIES.**

2 (a) ANNUITIES FOR SURVIVORS OF SPECIAL TRIAL  
3 JUDGES RETIRING UNDER NEW SYSTEM.—Section 376  
4 of title 28, United States Code, is amended as follows:

5 (1) Subsection (a)(1) is amended—

6 (A) by striking “or” at the end of subpara-  
7 graph (F);

8 (B) by adding “or” at the end of subpara-  
9 graph (G);

10 (C) by inserting after subparagraph (G)  
11 the following:

12 “(H) a full-time special trial judge;”;

13 (D) by striking “or (vii)” and inserting  
14 “(vii)”; and

15 (E) by adding:

16 “or (viii) the date of enactment of the  
17 United States Court of Federal Claims  
18 Special Trial Judges Act of 2004, in the  
19 case of a full-time special trial judge in ac-  
20 tive service on that date;”.

21 (2) Subsection (a)(2) is amended—

22 (A) by striking “and” at the end of sub-  
23 paragraph (F);

24 (B) by adding “and” at the end of sub-  
25 paragraph (G); and

26 (C) by adding at the end the following:

1           “(H) in the case of a special trial judge, an  
2           annuity paid under section 181 of this title;”.

3           (3) Subsection (b) is amended in the last sen-  
4           tence by inserting “or 181” after “section 178” each  
5           place it appears.

6           (b) SURVIVORS’ ANNUITIES FOR INCUMBENTS.—In  
7           the case of a special trial judge who elects an annuity  
8           under section 3(b), only service for which an annuity  
9           under subsection (b) or (c) and subsection (g) of section  
10          181 of title 28, United States Code (as added by this Act),  
11          is calculated under section 3(b) may be used in the com-  
12          putation of an annuity under section 376 of title 28,  
13          United States Code, as amended by subsection (a) of this  
14          section.

15   **SEC. 5. RECALL OF SPECIAL TRIAL JUDGES.**

16          Chapter 7 of title 28, United States Code, is amended  
17          by adding after section 181 (as added by this Act) the  
18          following:

19   **“§ 182. Recall of special trial judges**

20          “(a) A special trial judge who has retired may, upon  
21          consent, be recalled to serve as a special trial judge by  
22          the Court of Federal Claims for a period of time to be  
23          determined by that Court.

24          “(b) Upon recall, the special trial judge shall receive,  
25          in addition to the annuity provided under section 181 or

1 under the applicable provisions of title 5, an amount equal  
 2 to the difference between that annuity and the current sal-  
 3 ary of the office to which the judge is recalled. The annu-  
 4 ity of a special trial judge who serves at least 3 years in  
 5 such recalled capacity and who retired under section 181  
 6 shall, upon completion of such recall service, be equal to  
 7 the salary in effect at the end of that period of recall serv-  
 8 ice for the office of special trial judge.

9 “(c) Nothing in this section shall affect the right of  
 10 a special trial judge who retired under the provisions of  
 11 chapter 83 or chapter 84 of title 5 to serve as a reem-  
 12 ployed annuitant in accordance with the provisions of title  
 13 5.

14 “(d) Except as provided in subsection (b), a special  
 15 trial judge recalled under this section who retired under  
 16 the applicable provisions of title 5 shall be considered to  
 17 be a reemployed annuitant under chapter 83 or chapter  
 18 84, as the case may be, of title 5.”.

19 **SEC. 6. THRIFT SAVINGS PLAN.**

20 (a) PARTICIPATION IN THE PLAN.—Subchapter III  
 21 of chapter 84 of title 5, United States Code, is amended  
 22 by adding at the end the following:

23 **“§ 8440g. Special trial judges**

24 “(a)(1) A special trial judge who is covered by section  
 25 181 of title 28 or section 3(b) of the United States Court

1 of Federal Claims Special Trial Judges Act of 2004 may  
2 elect to contribute an amount of such individual's basic  
3 pay to the Thrift Savings Fund.

4 “(2) An election may be made under paragraph (1)  
5 only during a period provided under section 8432(b) for  
6 individuals subject to this chapter.

7 “(b)(1) Except as otherwise provided in this sub-  
8 section, the provisions of this subchapter and subchapter  
9 VII shall apply with respect to special trial judges who  
10 make contributions to the Thrift Savings Fund under sub-  
11 section (a) of this section.

12 “(2) The amount contributed by a special trial judge  
13 for any pay period shall not exceed the maximum percent-  
14 age of such judge's basic pay for such pay period allowable  
15 under section 8440(f).

16 “(3) No contributions shall be made under section  
17 8432(c) of this title for the benefit of a special trial judge  
18 making contributions under subsection (a) of this section.

19 “(4)(A) Section 8433(b) of this title applies to a spe-  
20 cial trial judge who elects to make contributions to the  
21 Thrift Savings Fund under subsection (a) of this section  
22 and who retires entitled to an immediate annuity under  
23 section 181 of title 28 (including a disability annuity  
24 under subsection (d) of such section) or section 3(b) of

1 the United States Court of Federal Claims Special Trial  
2 Judges Act of 2004.

3 “(B) Section 8433(b) of this title applies to any spe-  
4 cial trial judge who elects to make contributions to the  
5 Thrift Savings Fund under subsection (a) of this section  
6 and who retires before attaining age 65 but is entitled,  
7 upon attaining age 65, to an annuity under section 181  
8 of title 28 or section 3(b) of the United States Court of  
9 Federal Claims Special Trial Judges Act of 2004.

10 “(C) Section 8433(b) of this title applies to any spe-  
11 cial trial judge who elects to make contributions to the  
12 Thrift Savings Fund under subsection (a) of this section  
13 and who retires before becoming entitled to an immediate  
14 annuity, or an annuity upon attaining age 65, under sec-  
15 tion 181 of title 28 or section 3(b) of the United States  
16 Court of Federal Claims Special Trial Judges Act of 2004.

17 “(5) With respect to special trial judges to whom this  
18 section applies, any of the actions described under para-  
19 graph (4)(A), (B) or (C) shall be considered a separation  
20 from service for purposes of this subchapter and sub-  
21 chapter VII.

22 “(6) For purposes of this section, the terms ‘retire-  
23 ment’ and ‘retire’ include removal from office under sec-  
24 tion 181(c) of title 28 on the sole ground of mental or  
25 physical disability.

1       “(7) In the case of a special trial judge who receives  
 2 a distribution from the Thrift Savings Plan and who later  
 3 receives an annuity under section 181 of title 28, that an-  
 4 nuity shall be offset by an amount equal to the amount  
 5 of the distribution which represents the Government’s con-  
 6 tribution to that person’s Thrift Savings Account, without  
 7 regard to earnings attributable to that amount. Where  
 8 such an offset would exceed 50 percent of the annuity to  
 9 be received in the first year, the offset may be divided  
 10 equally over the first 2 years in which that person receives  
 11 the annuity.

12       “(8) Notwithstanding paragraph (4), if any special  
 13 trial judge retires under circumstances making such judge  
 14 eligible to make an election under subsection (b) of section  
 15 8433, and such judge’s nonforfeitable account balance is  
 16 less than an amount that the Executive Director pre-  
 17 scribes by regulation, the Executive Director shall pay the  
 18 nonforfeitable account balance to the participant in a sin-  
 19 gle payment.”.

20       (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 21 The table of sections for chapter 84 of title 5, United  
 22 States Code, is amended by adding at the end the fol-  
 23 lowing:

“8440g. Special trial judges.”.

1 **SEC. 7. CIVIL SERVICE RETIREMENT SYSTEM AND FED-**  
 2 **ERAL EMPLOYEES RETIREMENT SYSTEM.**

3 (a) DEFINITION.—Section 8331 of title 5, United  
 4 States Code, is amended—

5 (1) by striking “and” at the end of paragraph  
 6 (28);

7 (2) by striking the period at the end of para-  
 8 graph (29) and inserting “; and”; and

9 (3) by adding at the end the following para-  
 10 graph:

11 “(30) a ‘special trial judge’ means an individual  
 12 who is appointed under section 180 of title 28 or has  
 13 served under section 2112 of the Public Health  
 14 Service Act (42 U.S.C. 300aa–12).”.

15 (b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-  
 16 ITS.—Section 8334 of title 5, United States Code, is  
 17 amended—

18 (1) in subsection (a)(1)(A), by inserting “Court  
 19 of Federal Claims special trial judge”, after “Court  
 20 of Federal Claims judge”; and

21 (2) in subsection (c), by inserting in the table  
 22 “or Court of Federal Claims special trial judge”,  
 23 after “Court of Federal Claims judge”.

24 (c) IMMEDIATE RETIREMENT.—Section 8336(k) of  
 25 title 5, United States Code, is amended to read as follows:

1       “(k) A bankruptcy judge, United States Magistrate,  
 2 United States Court of Federal Claims judge, or Court  
 3 of Federal Claims special trial judge who is separated  
 4 from service, except by removal, after becoming 62 years  
 5 of age and completing 5 years of civilian service, or after  
 6 becoming 60 years of age and completing 10 years of serv-  
 7 ice as a bankruptcy judge, United States magistrate,  
 8 Court of Federal Claims judge, or Court of Federal Claims  
 9 special trial judge or special master, is entitled to an annu-  
 10 ity.”.

11       (d) COMPUTATION OF CSRS ANNUITY.—Section  
 12 8339(n) of title 5, United States Code, is amended to read  
 13 as follows:

14       “(n) The annuity of an employee who is a Court of  
 15 Federal Claims judge, bankruptcy judge, United States  
 16 magistrate judge, or special trial judge is computed, with  
 17 respect to service as a Court of Federal Claims judge, as  
 18 a commissioner of the Court of Claims, as a referee in  
 19 bankruptcy, as a bankruptcy judge, as a United States  
 20 magistrate judge, as a United States Commissioner, as a  
 21 Court of Federal Claims special trial judge, and as a spe-  
 22 cial master of the Court of Federal Claims under section  
 23 2112 of the Public Health Service Act (42 U.S.C. 300aa–  
 24 12), and with respect to the military service of any such  
 25 individual (not exceeding 5 years) creditable under section



1 8332 of this title, by multiplying  $2\frac{1}{2}$  percent of the indi-  
 2 vidual's average pay by the years of that service.”.

3 (e) COMPUTATION OF FERS BASIC ANNUITY.—Sec-  
 4 tion 8415 of title 5, United States Code, is amended by  
 5 adding the following:

6 “(m) The annuity of a special trial judge of the  
 7 United States Court of Federal Claims retiring under this  
 8 subchapter is computed under subsection (a), except that  
 9 if the individual has had at least 5 years of service as a  
 10 United States Court of Federal Claims special trial judge  
 11 or as a special master of that court, or any combination  
 12 thereof, so much of the annuity as is computed with re-  
 13 spect to either such type of service (or a combination  
 14 thereof), not exceeding a total of 20 years, shall be com-  
 15 puted by multiplying  $1\frac{7}{10}$  percent of the individual's aver-  
 16 age pay by the years of such service.”.

17 **SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.**

18 (a) ADMINISTRATIVE OFFICE OF THE UNITED  
 19 STATES COURTS.—Section 604(a) of title 28, United  
 20 States Code (relating to the duties of the Director of the  
 21 Administrative Office of the United States Courts) is  
 22 amended—

23 (1) in paragraph (7) by inserting “special trial  
 24 judges,” after “United States magistrate judges,”;

1           (2) by redesignating paragraph (24) as para-  
2       graph (25); and

3           (3) by inserting after paragraph (23) the fol-  
4       lowing:

5           “(24) Regulate and pay annuities to special  
6       trial judges in accordance with section 181 of this  
7       title and paragraphs (1)(B) and (2) of section 3(b)  
8       of the United States Court of Federal Claims Spe-  
9       cial Trial Judges Act of 2004;”.

10       (b) CIVIL SERVICE RETIREMENT SYSTEM.—Section  
11       8334(i) of title 5, United States Code, is amended by add-  
12       ing at the end the following:

13       “(7) Notwithstanding any other provision of law, a  
14       special trial judge who is covered by section 181 of title  
15       28 or section 3(b) of the United States Court of Federal  
16       Claims Special Trial Judges Act of 2004 shall not be sub-  
17       ject to deductions and contributions to the Fund, if the  
18       judge notifies the Director of the Administrative Office of  
19       the United States Courts of an election of a retirement  
20       annuity under those provisions. Upon such an election, the  
21       judge shall be entitled to a lump-sum credit under section  
22       8342(a) of this title.”.

23       (c) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—  
24       Section 8402 of title 5, United States Code, is amended  
25       by adding at the end the following:

1       “(h) A special trial judge who is covered by section  
 2 181 of title 28 or section 3(b) of the United States Court  
 3 of Federal Claims Special Trial Judges Act of 2004 shall  
 4 be excluded from the operation of this chapter, other than  
 5 subchapters III and VII of such chapter, if the judge noti-  
 6 fies the Director of the Administrative Office of the United  
 7 States Courts of an election of a retirement annuity under  
 8 those provisions. Upon such election, the judge shall be  
 9 entitled to a lump-sum credit under section 8424 of this  
 10 title.”.

11       (d) TECHNICAL AND CONFORMING AMENDMENT.—  
 12 The table of sections for chapter 7 of title 28, United  
 13 States Code, is amended by adding at the end the fol-  
 14 lowing:

“180. Special trial judges.

“181. Retirement of special trial judges.

“182. Recall of special trial judges.”.

#### 15 **SEC. 9. REPORT TO CONGRESS.**

16       The Director of the Administrative Office of the  
 17 United States Courts, shall, not later than 5 years after  
 18 the date of the enactment of this Act, submit a report  
 19 to the Congress on the financial operation of the retire-  
 20 ment annuity program established under this Act and the  
 21 amendments made by this Act. The report shall, in par-  
 22 ticular, include a discussion of the deductions from salary  
 23 and deposits made for contributions to the annuity pro-

1 gram and the need for continuing the deductions at the  
 2 level established under the amendments made by this Act.

3 **SEC. 10. BANKRUPTCY, MAGISTRATE, AND TERRITORIAL**  
 4 **JUDGES LIFE INSURANCE.**

5 (a) BANKRUPTCY JUDGES.—Section 153 of title 28,  
 6 United States Code, is amended by adding at the end the  
 7 following:

8 “(d) For purposes of construing and applying chapter  
 9 87 of title 5, including any adjustment of insurance rates  
 10 by regulation or otherwise, a bankruptcy judge of the  
 11 United States in regular active service or who is retired  
 12 under section 377 of this title shall be deemed to be a  
 13 judge of the United States described under section  
 14 8701(a)(5) of title 5.”.

15 (b) UNITED STATES MAGISTRATE JUDGES.—Section  
 16 634(c) of title 28, United States Code, is amended—

17 (1) by inserting “(1)” after “(c)”; and

18 (2) by adding at the end the following:

19 “(2) For purposes of construing and applying  
 20 chapter 87 of title 5, including any adjustment of in-  
 21 surance rates by regulation or otherwise, a mag-  
 22 istrate judge of the United States in regular active  
 23 service or who is retired under section 377 of this  
 24 title shall be deemed to be a judge of the United

1 States described under section 8701(a)(5) of title  
2 5.”.

3 (c) TERRITORIAL JUDGES.—

4 (1) GUAM.—Section 24 of the Organic Act of  
5 Guam (48 U.S.C. 1424b) is amended by adding at  
6 the end the following:

7 “(c) For purposes of construing and applying chapter  
8 87 of title 5, including any adjustment of insurance rates  
9 by regulation or otherwise, a judge appointed under this  
10 section who is in regular active service or who is retired  
11 under section 373 of this title shall be deemed to be a  
12 judge of the United States described under section  
13 8701(a)(5) of title 5.”.

14 (2) COMMONWEALTH OF THE NORTHERN MAR-  
15 IANA ISLANDS.—The first section of the Act of No-  
16 vember 8, 1977 (48 U.S.C. 1821; Public Law 95–  
17 157; 91 Stat. 1265) is amended in subsection (b) by  
18 adding at the end the following:

19 “(5) For purposes of construing and applying  
20 chapter 87 of title 5, including any adjustment of in-  
21 surance rates by regulation or otherwise, a judge ap-  
22 pointed under this section who is in regular active  
23 service or who is retired under section 373 of this  
24 title shall be deemed to be a judge of the United

1 States described under section 8701(a)(5) of title  
 2 5.”.

3 (3) VIRGIN ISLANDS.—Section 24(a) of the Re-  
 4 vised Organic Act of the Virgin Islands (48 U.S.C.  
 5 1614(a)) is amended—

6 (A) by inserting “(1)” after “(a)”; and

7 (B) by adding at the end the following:

8 “(2) For purposes of construing and applying  
 9 chapter 87 of title 5, including any adjustment of in-  
 10 surance rates by regulation or otherwise, a judge ap-  
 11 pointed under this section who is in regular active  
 12 service or who is retired under section 373 of this  
 13 title shall be deemed to be a judge of the United  
 14 States described under section 8701(a)(5) of title  
 15 5.”.

16 **SEC. 11. EFFECTIVE DATE.**

17 Except as otherwise provided in this Act, this Act and  
 18 the amendments made by this Act shall take effect on the  
 19 date of enactment of this Act and the provisions and  
 20 amendments made by this Act relating to retirement shall  
 21 apply to special trial judges who retire on or after the date  
 22 of enactment of this Act.

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